

FCC MAIL SECTION

DA 95-2361

DOCKET FILE COPY ORIGINAL

Nov 27

10 26 AM '95

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DISPATCHED BY

In the Matter of

Price Cap Performance Review
for Local Exchange Carriers

CC Docket No. 94-1

ORDER ON MOTION FOR EXTENSION OF TIME

Adopted: November 21, 1995; Released: November 21, 1995

By the Chief, Common Carrier Bureau:

1. In September of this year, the Commission released three notices of proposed rulemaking seeking comment on price cap regulation of local exchange carriers (LECs).¹ The *LEC Pricing Flexibility NPRM* seeks comment on proposed changes to the LEC price cap plan that would respond to changes in the market for interstate access services and would rely more heavily on market forces to achieve the Commission's public policy goals. Among other things, the Commission asked for comment on proposed changes that would make it easier for LECs to introduce new services and would grant LECs increased pricing flexibility. Comments were originally due on November 20, 1995, with reply comments due on December 20, 1995. The *VDT NPRM* solicits comment on the threshold level of video dialtone activity required to compel segregation of video dialtone costs and revenues for purposes of sharing and the low-end adjustment, and the procedures for allocating costs to the video dialtone basket once the threshold has been exceeded. Initial comments on the *VDT NPRM* were due on October 27, 1995, and reply comments were originally due on November 17, 1995.² In the *X-Factor NPRM*, the Commission solicited comment on a number of issues regarding the long term price cap plan. In particular, it sought comment

¹ Price Cap Performance Review for Local Exchange Carriers, Second Further Notice of Proposed Rulemaking in CC Docket No. 94-1, Further Notice of Proposed Rulemaking in CC Docket No. 93-124, and Second Further Notice of Proposed Rulemaking in CC Docket No. 93-197, FCC 95-393 (rel. Sept. 20, 1995) (*LEC Pricing Flexibility NPRM*); Price Cap Performance Review for Local Exchange Carriers, Second Report and Order and Third Further Notice of Proposed Rulemaking, CC Docket No. 94-1, FCC 95-394 (rel. Sept. 21, 1995) (*VDT NPRM*); Price Cap Performance Review for Local Exchange Carriers, Fourth Further Notice of Proposed Rulemaking, CC Docket No. 94-1, FCC 95-406 (rel. Sept. 27, 1995) (*X-Factor NPRM*).

² Because a funding lapse closed the Commission on November 17, 1995, those reply comments became due on November 20, 1995.

on: (a) the X-Factor, including calculation of the X-Factor, and whether the X-Factor should be reviewed and modified periodically or set on a permanent basis; (b) the number of X-Factors to be included in the price cap plan, and the sharing requirements, if any, to be associated with each X-Factor; (c) the common line formula; and (d) the exogenous cost rules. Comments are due on the *X-Factor NPRM* on November 27, 1995, and reply comments are due on December 27, 1995.

2. On October 31, 1995, the Ad Hoc Telecommunications Users Committee (Ad Hoc) requested that the Commission extend by three months the dates for filing comments in response to the *LEC Pricing Flexibility NPRM*. Sprint Corporation (Sprint) filed comments in support of Ad Hoc's request. The United States Telephone Association (USTA) filed comments opposing Ad Hoc's request and filed its own motion requesting a three-week extension for comments in response to both the *LEC Pricing Flexibility NPRM* and the *X-Factor NPRM*. Southwestern Bell Telephone Company filed comments in opposition to Ad Hoc's request and supported USTA's request for a three-week extension for both notices. The Bell Atlantic Telephone Companies (Bell Atlantic) and Ameritech also opposed Ad Hoc's request. Bell Atlantic argued that the Commission should grant a limited extension shorter than that sought by Ad Hoc for both the *LEC Pricing Flexibility NPRM* and the *X-Factor NPRM*. Ameritech stated that for the *LEC Pricing Flexibility NPRM* it would not oppose a modest extension of three weeks or less. Pacific Bell opposed Ad Hoc's motion and suggested a six week extension of time to file comments responsive to both the *LEC Pricing Flexibility NPRM* and the *X-Factor NPRM*. Sprint also filed comments supporting USTA's motion for a three-week extension for filing of comments responsive to the *X-Factor NPRM*.

3. On November 13, 1995, the Common Carrier Bureau (Bureau) granted a one-week extension of time to November 27, 1995, for parties to address the matters raised in Issues 19 and 20 and paragraphs 159 through 172 of the *LEC Pricing Flexibility NPRM* and a three-week extension for parties to submit comments in response to all other issues raised in the *LEC Pricing Flexibility NPRM*. The Bureau deferred action on USTA's motion and other LEC requests for an extension of the deadline for comments responsive to the *X-Factor NPRM*.


4. Although it is the policy of the Commission that extensions of time are not routinely granted,³ in light of the important issues presented in this proceeding and to allow parties to submit comments that are more helpful to the Commission, the Bureau will grant a three-week extension for parties to submit comments in response to the *X-Factor NPRM*. The Bureau, on its own motion, grants the same three-week extension of time for parties to address the matters raised in Issues 19 and 20 and paragraphs 159 through 172 of the *LEC*

³ See 47 C.F.R. § 1.46(a).

Pricing Flexibility NPRM.⁴ This will keep the comment schedule for all X-Factor related issues the same. Comments responsive to the *X-Factor NPRM* and the indicated portions of the *LEC Pricing Flexibility NPRM* will thus be due on December 18, 1995 and reply comments are due on January 17, 1996. Parties may file comments on the designated issues from the *LEC Pricing Flexibility NPRM* together with their comments responsive to the *X-Factor NPRM*, which are due on the same dates, or they may submit them separately.⁵

5. Accordingly, IT IS ORDERED, pursuant to Sections 4 (j) and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154 (j) and 155(c), and the authority delegated thereunder pursuant to Sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91 and 0.291, that the motion of USTA for an extension of time is GRANTED to the extent indicated herein. Comments in response to the *X-Factor NPRM* and the indicated portions of the *LEC Pricing Flexibility NPRM* shall be FILED by the dates described above.

FEDERAL COMMUNICATIONS COMMISSION


Regina M. Keeney
Chief, Common Carrier Bureau

⁴ Those issues, however, also relate to the matters raised in Issues 11 through 14 of the *LEC Pricing Flexibility NPRM*, which seek comment on how to determine whether a market is competitive and definition of product and geographic markets. Therefore, in addressing Issues 19 and 20, parties should address the market definition and other issues raised in Issues 11 through 14 and paragraphs 106 through 126 of the *LEC Pricing Flexibility NPRM*, as necessary to put their comments in context.

⁵ Comments on those portions of the *LEC Pricing Flexibility NPRM* other than Issues 19 and 20 and paragraphs 159 through 172 remain due December 11, 1995, with reply comments due January 10, 1996.